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this Memorandum Decision shall not be
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**IN THE
COURT OF APPEALS OF INDIANA**

M.B.,)	
)	
Appellant-Respondent,)	
)	
vs.)	No. 56A03-0601-JV-23
)	
STATE OF INDIANA,)	
)	
Appellee-Petitioner.)	

APPEAL FROM THE NEWTON CIRCUIT COURT
The Honorable Jeryl F. Leach, Judge
Cause No. 56C01-0505-JD-39

September 12, 2006

MEMORANDUM DECISION - NOT FOR PUBLICATION

DARDEN, Judge

STATEMENT OF THE CASE

M.B. appeals his adjudication as a juvenile delinquent for committing an act that would be theft as a class D felony if committed by an adult.

We affirm.

ISSUE

Whether sufficient evidence supports the delinquency judgment.

FACTS¹

On October 8, 2004, North Newton High School student D.H. was riding the school bus. He carried his books and some personal property in a book bag. Inside his book bag were a CD player and some CDs. His book bag “was in front of [him] and underneath [his] seat” on the bus. (Tr. 15). The CD player and CDs were taken from the book bag. D.H. recovered 3 of the missing CDs but not his \$35.00 CD player and other CDs.

On May 5, 2005, the State filed a petition alleging that M.B. was a delinquent child for having “exerted unauthorized control over the property of another person with the intent to deprive the other person of its value or use, to wit: took a CD player from another student.” (App. 5). On October 31, 2005, a fact-finding hearing was held.

Fellow student A.R. testified that he was on the bus that day and that M.B. “told [him] to grab the CDs and the CD player.” (Tr. 16). A.R. testified that he then “picked them up and gave them to” M.B. Id. A.R. further testified that M.B. proceeded to “throw

¹ We remind counsel for M.B. that the appellate rules direct that the facts recited in the Statement of Facts to be “stated in accordance with the standard of review appropriate to the judgment or order being appealed.” Ind. Appellate Rule 46(A)(6)(b).

the CD player out” the bus window. Id. When A.R. asked M.B. why he threw the CD player out the window, “he said, ‘I got another one.’” Id. A.R. testified that M.B. gave 3 of the CDs to him, and he repeated that it was M.B. who “threw the CD player out the window.” (Tr. 17). D.H. testified that A.R. had returned 3 of his CDs to him. A.R. testified that “[M.B.] kept the other CDs.” (Tr. 17). M.N. also testified that he had been on the bus that day, and that “[M.B.]” was the one who threw the CD player out the window. (Tr. 22).

M.B. testified that he had not taken the CD player or any CDs; had not seen anyone take them; and had not thrown the CD player out the window. Testimony from other witnesses who had been on the bus that day conflicted in some ways with that of A.R. and M.N. At the conclusion of the hearing, the trial court noted that witnesses told “different versions” of what happened, but that each had only seen “pieces” of what happened “from beginning to the end.” (Tr. 41). It found “inconsistencies” in M.B.’s testimony as to where the other witnesses were seated, and that M.B.’s testimony that A.R. had simply handed him some CDs – “didn’t say why, I didn’t ask why, but I looked through and I gave them back” failed to “add up.” (Tr. 41, 42). “[B]ased on the corroborating testimony of the other witnesses,” the trial court found M.B. was “in fact a delinquent child in that he did commit the act of Theft upon the CD player as charged.” (Tr. 42).

DECISION

Our standard of review for sufficiency of the evidence in a juvenile case has been described as follows:

[W]hen the State seeks to have a juvenile adjudicated to be [a] delinquent child, the State must prove every element of that offense beyond a reasonable doubt. Upon review, we will not reweigh the evidence or judge the credibility of the witnesses. Rather, this court looks to the evidence and the reasonable inferences therefrom that support the [true finding], and we will affirm a conviction if evidence of probative value exists from which the factfinder could find the defendant guilty beyond a reasonable doubt. Thus, we will affirm the finding of delinquency unless it may be concluded that no reasonable factfinder could find the elements of the crime proven beyond a reasonable doubt.

C.T.S. v. State, 781 N.E.2d 1193, 1200 - 01 (Ind. Ct. App. 2003), trans. denied (quoting J.V. v. State, 766 N.E.2d 412, 415 (Ind. Ct. App. 2002), trans. denied). Further, it is for the trier of fact to resolve conflicts in testimony and to determine the weight of the evidence and the credibility of the witnesses. C.T.S., 781 N.E.2d at 1201.

Both A.R. and M.N. testified that M.B. threw the CD player belonging to D.H. out the bus window. This is probative evidence from which the trial court could conclude beyond a reasonable doubt that M.B. exercised unauthorized control over the CD player.

However, M.B. argues, there is insufficient evidence to support the adjudication because the petition alleged that *he took* the CD player, and no witness testified to seeing *him take* the CD player belonging to D.H. We cannot agree. A.R. testified that M.B. “told [him] to grab the CDs and the CD player.” (Tr. 16). Indiana law provides that a person “who knowingly or intentionally aids, induces, or causes another person to commit an offense commits that offense” Ind. Code § 35-41-2-4. Thus, when A.R. complied with M.B.’s direction and took the CD player from D.H.’s book bag, M.B. “commit[ed] the offense” of theft. Id.

Affirmed.

RILEY, J., and VAIDIK, J., concur.